

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Noa Street-Sachs	Team: Squad #8	CCRB Case #: 201907659	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 08/15/2019 6:40 PM	Location of Incident: 181st Street Station (1 train)	Precinct: 34	18 Mo. SOL 2/15/2021	EO SOL 10/2/2021	
Date/Time CV Reported Thu, 08/15/2019 7:40 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/28/2019 10:50 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Alfonzo Choice	15269	936347	TB M/TF

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Pierre Bovil	02259	929507	TB M/TF

Officer(s)	Allegation	Investigator Recommendation
A.POM Alfonzo Choice	Abuse: Police Officer Alfonzo Choice refused to provide his shield number to § 87(2)(b) § 87(2)(b)	
B.POM Alfonzo Choice	Abuse: Police Officer Alfonzo Choice refused to provide his shield number to § 87(2)(b) § 87(2)(b)	
C.POM Alfonzo Choice	Force: Police Officer Alfonzo Choice used physical force against § 87(2)(b) § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On August 15, 2019, § 87(2)(b) filed this complaint with IAB over the phone, generating original log number 19-31199. The CCRB received this complaint on August 28, 2019.

On August 15, 2019, at approximately 4:30 p.m., in the vicinity on the 181st Street – 1 line train station in Manhattan, PO Alfonzo Choice of Transit Borough Manhattan T/F allegedly refused to provide his shield number to § 87(2)(b) upon his request for it (**Allegation A: Abuse of Authority**, § 87(2)(g)). At approximately 6:40 p.m., § 87(2)(b) returned to the train station and requested PO Choice's shield number again, to which PO Choice refused to provide it (**Allegation B: Abuse of Authority**, § 87(2)(g)). PO Choice then forcibly ejected § 87(2)(b) from the station (**Allegation C: Force**, § 87(2)(g)). § 87(2)(b) was not arrested or issued a summons. § 87(2)(b), § 87(4-b), § 87(2)(g)

The investigation obtained surveillance footage from the MTA which did not capture this incident. A request for body-worn camera footage was submitted pursuant to this case and is currently pending, however PO Choice stated that he did not activate his BWC.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Alfonzo Choice refused to provide his shield number to § 87(2)(b) § 87(2)(b)

It is undisputed that on August 15, 2019, at approximately 4:30 p.m., § 87(2)(b) entered the 181st Street -1 line train station and requested to enter without paying the fare. § 87(2)(g)

In § 87(2)(b) sworn statement provided on September 5, 2019, he stated that on August 15, 2019, at approximately 4:30 p.m., he entered the 181st Street – 1 line train station alone, approached PO Choice and PO Bovil, and asked PO Choice if he could enter without paying the fare. After PO Choice said no, § 87(2)(b) asked PO Choice for his shield number and for him to turn on his BWC. § 87(2)(b) asked for PO Choice's shield number more than three times while standing 4-5 feet away from PO Choice. PO Choice responded, "Back up. Don't talk to me." § 87(2)(b) continued to ask PO Choice for his shield number. PO Choice allowed § 87(2)(b) to look at it once for approximately 5-10 seconds and § 87(2)(b) said, "I couldn't quite get it. Could I just write it down?" PO Choice said no and would not provide it again. PO Choice said, "You had your chance." PO Choice covered his shield number with his arms closed over it so that § 87(2)(b) could not see it. § 87(2)(b) bought a one-way subway ticket and entered the turnstiles (Board Review 01).

§ 87(2)(b) phone statement, provided on August 29, 2019 was generally consistent with his verified statement (Board Review 02).

PO Choice testified that he had been assigned to the post he stood at on August 15, 2019 four-five times over the course of the summer, and § 87(2)(b) had approached him each time he was there. PO Choice gave § 87(2)(b) a "courtesy ride" the first time, and possibly the second time,

that they interacted. On the date of the incident, PO Choice refused. § 87(2)(b) began yelling out PO Choice's and PO Bovil's shield number and last names and "making a scene." PO Choice told § 87(2)(b) #####, "You're being a little disorderly." § 87(2)(b) went to the machine, purchased a metro card, and left. § 87(2)(b) did not specifically request PO Choice's information during this initial interaction (Board Review 03).

§ 87(2)(g) PO Bovil did not recall § 87(2)(b) requesting information from PO Choice. PO Bovil also did not remember PO Choice providing his information (Board Review 04).

§ 87(2)(b), § 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Alfonzo Choice refused to provide his shield number to § 87(2)(b) § 87(2)(b)

It is undisputed that PO Choice refused to provide his shield number to § 87(2)(b) during their second encounter on August 15, 2019.

In his verified statement provided on September 5, 2019, § 87(2)(b) stated that he returned to the 181st Street – 1 line train station 30-45 minutes after his initial encounter with PO Choice and PO Bovil. § 87(2)(b) approached PO Choice with his phone, stood approximately five feet away from him, and said "I have my phone on. I want to at least get a snapshot of your badge through the camera." PO Choice said he did not want to talk to § 87(2)(b). PO Choice said, "Get out of my face" to § 87(2)(b) who then moved back approximately two feet such that he was seven feet from PO Choice. PO Choice told § 87(2)(b) to leave the station two times before telling § 87(2)(b) that he was going to remove him. § 87(2)(b) said, "I'm just trying to get your badge number, officer." § 87(2)(b) asked for PO Choice's shield number more than five times (Board Review 01).

§ 87(2)(b), § 87(2)(g)

PO Choice testified that he noticed a bright light emanating from § 87(2)(b) phone when he returned to the station, indicating that it appeared to be recording. § 87(2)(b) said with a raised voice and aggravated tone, "Say what you said before" and "Let me get your shield number." PO Choice, also aggravated, said to § 87(2)(b) "You got my shield number the last time. You got my information the last time. You're not going to sit and dictate terms." In the interview, PO Choice was "pretty sure" § 87(2)(b) could see his shield number during this second encounter based on his proximity. Since it was very hot in the subway station, PO Choice's hands were latched into the collar of his shirt to let the steam out. Regarding PO Choice's shield number, § 87(2)(b) said, "I need to see it," and PO Choice responded, "You got it already." PO Choice then

took his hands out of his collar so that § 87(2)(b) could see the shield number and record it on his phone. § 87(2)(b) was standing 4-5 feet away. PO Choice did not verbally provide his shield number to § 87(2)(b) (Board Review 03).

PO Bovil testified that when § 87(2)(b) returned to the station, he exited the turnstile and had his cell phone extended as if he was recording. He approached PO Bovil and PO Choice and began to pan left and right with his phone. § 87(2)(b) was approximately three feet away from PO Bovil. He walked up to PO Bovil and said, "Officer Bovil. 2259. I got you." He then approached PO Choice and got closer to his face. PO Bovil did not recall § 87(2)(b) requesting information from PO Choice or PO Choice providing it. (Board Review 04).

Patrol Guide Procedure 203-09, as previously discussed, requires that uniformed members of service courteously and clearly state their rank, name, shield number and command, or otherwise provide them upon request (Board Review Board Review 05).

§ 87(2)(b), § 87(2)(g)
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Allegation (C) Force: Police Officer Alfonzo Choice used physical force against § 87(2)(b)

§ 87(2)(b)

It is undisputed that § 87(2)(b) was ejected from the 181st Street – 1 line train station on August 15, 2019. § 87(2)(b), § 87(2)(g)

In § 87(2)(b) verified statement provided on September 5, 2019, he stated that after being told to leave the station two times, PO Choice grabbed his left arm with two hands, twisted it back, and pushed § 87(2)(b) forward. § 87(2)(b) told PO Choice he was not resisting and informed PO Choice of physical injuries he had sustained from a prior incident. PO Choice then pushed § 87(2)(b) right shoulder against a nearby wall a total of three times.

PO Choice was "steering" § 87(2)(b) by holding his arm. PO Choice brought § 87(2)(b) to the top of the stairs where PO Bovil stood. § 87(2)(b) could not remember PO Choice issuing any instructions to him. When § 87(2)(b) and PO Choice arrived at the top step, PO Choice let go. In the interview, § 87(2)(b) testified that he still had soreness to his right shoulder from PO Choice pushing him against the wall (Board Review 01).

§ 87(2)(g)
§ 87(2)(b)

PO Choice testified that when § 87(2)(b) returned to the station, he kept approaching PO Choice and was raising his voice. Approximately 10-15 people in the station were gathering around, watching, and taking out their phones. PO Choice gave § 87(2)(b) three warnings by telling him he was being disorderly before PO Choice told § 87(2)(b) he needed to leave the station. PO

Choice said, “You need to leave the station now. You’re creating a scene. People are standing around. Your business here is over.” PO Choice “escorted” § 87(2)(b) to the stairs on his left-hand side. PO Choice took § 87(2)(b) upper arm with this right hand and lower arm with his left hand. § 87(2)(b) tried to “wiggle” away while PO Choice grabbed him. § 87(2)(b) said, “I’m going,” and never complained about being in pain or any previous injuries. PO Choice did not notice any injuries. § 87(2)(b) walked up the stairs on his own and left.

PO Choice did not think the incident warranted § 87(2)(b) being arrested. In the interview, PO Choice explained that § 87(2)(b) could have been issued a summons and possibly arrested for being disorderly. PO Choice did not think an arrest was the best course of action. Besides § 87(2)(b) being disorderly, there was no other reason why PO Choice asked him to leave the station (Board Review 03).

§ 87(2)(g) PO Bovil stated that § 87(2)(b) who was angry and upset, was standing in front of the turnstiles and blocking other individuals from swiping into the station. Several people had to go around § 87(2)(b) to enter or exit. PO Bovil stated that § 87(2)(b) behavior constituted disorderly conduct. The station was busy at this time and approximately eight civilians stopped to watch. The most significant discrepancy between their statements was that PO Bovil testified that when PO Choice escorted § 87(2)(b) out of the station, PO Choice walked him halfway up the stairs and they walked side by side for approximately ten steps. § 87(2)(b) walked the rest of the way up the staircase on his own. Aside from leading § 87(2)(b) out by his arm, PO Choice did not do anything else physically to remove § 87(2)(b) from the station (Board Review 04).

The investigation obtained the Transit System Ejection Report pertaining to this incident, which was consistent with the statements of PO Choice and PO Bovil. The report stated that on August 15, 2019, at 6:58 p.m., an unidentified homeless white male was ejected from the 181st Street – 1 line train station by PO Choice. The reason for ejection was “breach of peace” (Board Review 06).

Patrol Guide Procedure 212-20 states that any person who violates any portion of NYCRR Part 1050 is subject to ejection from New York City Transit facilities. When it is necessary to eject a passenger, uniformed members of service should advise the passenger of the ejection and the reason, permit the passenger to leave voluntarily, and use no more force than is necessary to affect the ejection if the passenger refuses. Generally, reasonable force is considered grasping the upper arm and forearm to escort the passenger out. Members of service should make an Activity Log entry and prepare a Transit System Ejection Report each time an ejection is affected (Board Review 07).

New York State Penal Law 240.20 states that a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, (2) he makes unreasonable noise or (5) he obstructs vehicular or pedestrian traffic (Board Review 08).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Choice has been a member of service for 14 years and has been a subject in two prior CCRB complaints and five allegations, none of which were substantiated. CCRB history does not reflect any apparent pattern pertinent to this investigation (Board Review 11).

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of September 24, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to this complaint (Board Review 12).

• § 87(2)(b)

Squad No.: _____8_____

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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